

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2009, by and between the **County of Shelby, a political subdivision of the State of Tennessee**, hereinafter referred to as "**LESSOR**" and **D. Curtis Wegener**, hereinafter referred to as "**LESSEE**".

RECITALS:

WHEREAS, The County of Shelby, owns certain unimproved road right-of-way designated for the future realignment of Benjestown Road, 20.14 acres in size, located east of the existing Benjestown Road right-of-way, immediately north of the Loosahatchie River, which unimproved road right-of-way being situated in the County of Shelby, State of Tennessee, and further identified as shown on attached Exhibit "B", hereinafter referred to as the "demised premises"; and

WHEREAS, D. Curtis Wegener is desirous of leasing said 20.14 acres of unimproved road right-of-way that adjoins his property, for his use in conjunction with his operation of a hunting club; and

WHEREAS, The County of Shelby is agreeable to lease D. Curtis Wegener said 20.14 acres of unimproved road right-of-way for use in conjunction with his operation of a hunting club, under the terms, covenants, conditions and provisions herein set forth.

NOW, THEREFORE, for and in consideration of the above stated purpose, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Description of the Property.** That 20.14 acres of unimproved road right-of-way designated for the future realignment of Benjestown Road which comprises the demised premises subject to this Lease Agreement is more particularly described by metes and bounds in **Exhibit "A"** attached hereto and incorporated herein by reference, and is specifically designated on the plat attached hereto as **Exhibit "B"** and incorporated herein by reference. The parties hereby acknowledge that the demised premises are currently undeveloped.

2. **Permitted Use.** **LESSEE** shall use the demised premises for use in conjunction with its farming, forestry, and hunting club operations on **LESSEE'S** adjoining properties. The foregoing use is hereinafter referred to as the "Permitted Use". **LESSOR** may terminate this Lease on thirty (30) days written notice if the demised premises are used for some use other than the Permitted Use. The demised premises shall not be used for any purpose in violation of any federal, state or municipal statute or ordinance, or any regulation, order or directive of a governmental agency, as such statutes, ordinances, regulations, orders or directives now exist or may hereafter provide, concerning the use and/or safety of the demised premises.

LESSEE covenants and agrees to use and occupy the demised premises in a careful, safe and proper manner; not to commit or permit to be committed any waste on the demised premises whatsoever; not to create or allow any nuisance to exist on the demised premises, and to abate any nuisance that may arise promptly and free of expense to **LESSOR**.

3. **Term.** **LESSOR** does hereby lease unto **LESSEE** the demised premises for an initial term of five (5) years commencing from the date of the Lease, with the option to extend the initial term for three (3) renewal terms of five (5) years each under the same terms and conditions applicable to the initial term, except for the amount of required rent, upon the mutual written consent of all parties to the Agreement.

4. **Rental.** **LESSEE** agrees to pay **LESSOR** as rent Five Thousand and 00/100 (\$5,000.00) Dollars for the initial term of the Lease. Rent shall be payable in the amount of One Thousand and 00/100 (\$1,000.00) Dollars per year for each year of this five year lease, due and payable in advance on or before each annual anniversary date of this Lease.

5. **Agreement to Pay Additional Rent.** **LESSEE** agrees to pay and discharge the following, as Additional Rent, during the Term hereof, punctually, as and when the same shall become due and payable:

(a) Each and every cost, expense, and obligation of every kind and nature, foreseen or unforeseen, for the payment of which **LESSOR** or **LESSEE** is or shall become liable by reason of their estates or interests in the demised premises or any portion thereof, by reason of any right or interest of **LESSOR** or **LESSEE** in or under this Lease, or by reason of or in any manner connected with or arising out of the possession, operation, maintenance, alteration, repair, rebuilding, use, or occupancy of the demised premises or requirements of this Lease.

(b) All taxes of every type and description., utility charges, assessments (including, but not limited to, assessments for public improvements or benefits), payments in lieu of taxes, and all other impositions and charges of every kind and nature, extraordinary or ordinary, general or special, which at any time during the Term shall be or become due and payable by **LESSOR** or **LESSEE** which shall be levied, assessed, or imposed in connection with the demised premises.

(c) All charges for gas, water, sewer, electricity, light, heat, power, telephone, and other utilities and services used, rendered or supplied to or in connection with the demised premises which are required by be paid by **LESSOR**. **LESSEE** agrees that **LESSOR** is not, nor shall it be required, to furnish to **LESSEE** or any other occupant, any gas, water, sewer, electricity, light, heat, power, or any other facilities, equipment, labor, materials, or services of any kind. **LESSOR** will extend any rights it may have to **LESSEE**, and will cooperate with **LESSEE**, at **LESSEE'S** expense, in connection with obtaining the use of any such utilities and other facilities and services.

(d) The reasonable costs of **LESSOR** and reasonable out of pocket expenses, including, without limitation, reasonable attorneys fees and expenses, which are incurred by **LESSOR** in connection with administering the demised premises or performing any act which it is required to do or deems necessary under this Lease.

LESSEE covenants to furnish to **LESSOR**, promptly upon request, proof of the payment of any amount or charge required to be paid by **LESSEE** hereunder.

6. **Proof of Payment.** The burden of proof of payment of rent in case of controversy shall be upon **LESSEE**.

7. **Renewal Terms.** **LESSEE** shall have the option to renew this Lease for three (3) successive terms of five (5) years each upon written mutual agreement of all parties to this Agreement, subject to the following terms and conditions:

(a) **LESSEE** shall give to **LESSOR** and **LESSOR** shall receive a written notice of the exercise of the option to renew the Lease for the additional term, time being of the essence. The written notice of the option to renew the Lease shall be received by **LESSOR** not less than 120 days and not greater than 180 days prior to the date the (respective) renewal term shall commence, if exercised. If the notification of the exercise of the (respective) renewal term is not so given and received, the option to renew shall automatically expire, however upon acceptance of a lease payment during any Renewal Term the Lease shall not be cancelable for improper or nonconforming notification.

(b) There shall be no default existing or continuing in the performance of any of the terms of the Lease either at the time written notification to renew is received by **LESSOR** or on the date the (respective) renewal term is to commence.

(c) **LESSEE** shall not have been late paying the rent due more than two (2) times during the Lease term proceeding the (respective) renewal term.

(d) Each renewal term shall be on the same terms, covenants, and conditions as provided in this Lease except as may be specifically provided for in this Lease and there shall be no privilege to extend or renew the term of this Lease for any period of time beyond the expiration of the fourth renewal term.

(e) **LESSEE** shall pay to **LESSOR** as rent for the first renewal term Six Thousand and 00/100 Dollars (\$6,000.00), which rent shall be payable in equal yearly installments of One Thousand, Two Hundred and 00/100 Dollars (\$1,200.00), due and payable in advance on or before each annual anniversary date of this Lease.

(f) **LESSEE** shall pay to **LESSOR** as rent for the second renewal term Seven Thousand and 00/100 Dollars (\$7,000.00), which rent is payable in equal yearly installments of One Thousand Four Hundred and 00/100 Dollars (\$1,400.00), due and payable in advance on or before each annual anniversary date of this Lease.

(g) **LESSEE** shall pay to **LESSOR** as rent for the third renewal term Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00), which rent is payable in equal yearly installments of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00), due and payable in advance on or before each annual anniversary date of this Lease.

8. **Improvements.** All improvements to the demised premises shall be made at **LESSEE'S** sole expense. All improvements, including, but not limited to, grading, paving, utility infrastructure, buildings and fixtures paid for in whole or in part by **LESSEE** during the term of this Lease, shall become the property of **LESSOR** upon the expiration of this Lease.

9. **Land Use Permitting.** **LESSEE**, at its own expense, shall apply for and secure any and all zoning changes and/or land use permits required to develop and utilize the demised premises for the Permitted Use.

10. **Condemnation.** If at any time during the term hereof the whole of the herein demised premises shall be taken for any public or quasi public use, under any statute, or by right of eminent domain, then, in such event, when possession shall have been taken there under of the demised premises by the condemning authorities, the Term hereby granted, and all rights of **LESSEE** hereunder, except as hereinafter provided, shall immediately cease and terminate and the rent hereunder shall be apportioned and paid to the time of such termination.

In the event of total condemnation **LESSEE** shall be entitled to interpose and prosecute in any condemnation proceedings a claim for the value of any improvements installed on the demised premises by **LESSEE** and for the value of any unexpired term of this lease.

LESSEE shall continue to pay rent hereunder until such time as **LESSEE** shall be required to surrender possession of the demised premises as a consequence of such taking or condemnation.

11. **Partial Condemnation.** If only a part of the demised premises shall be taken or condemned, that portion of the award which is attributable to the taking of **LESSOR'S** interest in the land shall belong to **LESSOR** and that portion of the award which is attributable to the taking of any improvements installed on the demised premises by **LESSEE** and the value of the unexpired term of this lease shall belong to **LESSEE**.

In the event the partial taking of the demised premises shall in the opinion of **LESSEE** interfere with the continued use of the demised premises as permitted by this Lease Agreement then **LESSEE** shall have the option of terminating this lease.

12. **Default and Termination.** **LESSOR** may terminate this Lease Agreement if **LESSEE** fails to fund or pay any monetary obligations hereunder when such funding or payment is due and such non-payment continues for fifteen (15) business days after notice of non-payment has been given to **LESSEE**. **LESSOR** may terminate this Lease Agreement if **LESSEE** fails to perform any other obligation created by this Lease Agreement and fails or refuses for sixty (60) days after notice of default has been given to **LESSEE** to take all steps necessary to cure and rectify such default to the reasonable satisfaction of **LESSOR**; provided, however, that to the extent a default is not reasonably susceptible of being cured within such sixty (60) day period, such cure period shall be extended for as long as necessary to complete such cure, but not to exceed an additional one hundred twenty (120) days for a total cure period of one hundred eighty (180) days, so long as **LESSEE** has commenced to cure during such sixty (60) day period and is diligently pursuing such cure to completion.

LESSOR shall have the option of terminating this Lease Agreement immediately upon written notice to **LESSEE** due to (i) the insolvency of **LESSEE** or the execution of an assignment for the benefit of creditors, (ii) the filing by **LESSEE** for reorganization under any law relating to bankruptcy or insolvency, which is not dismissed within sixty (60) days from the date of filing, (iii) the appointment of a receiver or trustee to take possession of substantially all of **LESSEE'S** assets located upon the demised premises, (iv) any representation or warranty of **LESSEE** contained in this Lease Agreement shall be knowingly false or misleading in any material respect as of the date made or deemed to have been made, or (v) the cessation of operational activities by **LESSEE**, including but not limited to, vacating or abandoning the demised premises for a period of ten (10) consecutive days or more. Any and all other notices of default except as provided herein are waived by **LESSEE**.

LESSEE shall have the right to terminate the Lease should in the LESSEE'S sole determination that the Lease is no longer economically viable due to the imposition of Additional Rent arising from the terms and conditions in the Lease, more expressly in Section 5. Agreement to Pay Additional Rent. Lessee shall give at least 120 days notice under this provision.

13. **Site Inspections.** **LESSOR** shall have the right, through its authorized employees or agents, to inspect the demised premises from time to time to determine if it is being utilized and maintained in accordance with this Lease Agreement. Upon reasonable notice to **LESSEE**, **LESSOR** will be allowed ready entry and access to all improvements, premises and areas of the demised premises in order to conduct such inspections. The cost of any such inspections shall be **LESSOR'S**.

14. **Delivery at End of Lease.** **LESSEE** agrees to deliver up said premises to **LESSOR** at the expiration of this lease in a condition equal to or better than that which exists at the commencement of this lease.

15. **Insurance.** **LESSEE** will maintain the following minimum insurance coverage and furnish written evidence of such insurance to **LESSOR**:

(a) Commercial General Liability coverage for operation of the Premises in accordance with the use clause Section 2, with limits of a minimum of \$1,000,000 single limit per occurrence/\$2,000,000 annual aggregate premises/operations coverage; \$2,000,000 Products/Completed Operations Aggregate; \$2,000,000 Personal and Advertising Injury; \$100,000 Fire Damage (any one fire); \$5,000 per person medical payments. Coverage is to be included for invitees and visitors. Shelby County, its elected officials, appointees, agents and employees will be included as additional insureds.

(b) Business Automobile Liability - minimum limit of \$1,000,000 for any one accident or loss on all owned, hired and non-owned autos.

(c) Worker's Compensation and Employers Liability Coverage as required by Tennessee statutes.

(d) Excess or Umbrella Liability in a limit of no less than \$2,000,000 each occurrence/\$2,000,000 aggregate.

(e) **LESSEE** will maintain all risk property insurance on any buildings, improvements and fixtures within the demised premises for their full replacement value. **LESSEE** will maintain all risk property insurance on its business personal property and improvements and betterments thereto. **LESSEE** will be responsible for paying its deductible, if applicable.

LESSEE will require all permitted sub-lessees, contractors (construction or otherwise) or vendors it engages, to carry and maintain during the term of their said engagement the insurance specified in subparagraphs A, B and D above, and where relevant the insurance coverage specified in subparagraph C above. The policies shall provide for a thirty (30) day notice of cancellation to **LESSOR** and replacement policies shall be delivered at least thirty (30) days prior to the expiration of current policies.

16. **Indemnity.** **LESSEE** shall be in exclusive control and possession of the demised premises. **LESSOR** shall not be liable for any loss, injury, death, or damage whatsoever to any persons or property that at any time may be suffered or sustained by **LESSEE** or by any person whosoever may at any time be using or occupying or visiting the demised premises or be in, on, or about the demised premises. **LESSEE** shall to the extent permitted by law indemnify, hold harmless and defend **LESSOR**, its agents, employees and elected officials (with counsel approved by and acceptable to **LESSOR**) against any and all claims, liability, loss, or damage whatsoever on account of any such loss, injury, death, or damage. **LESSEE** waives all claims against **LESSOR** for all such loss, injury, death and damage. **LESSEE** shall indemnify, hold harmless and defend **LESSOR** for clean-up of hazardous waste or damages or injury of property not caused by **LESSOR**. **LESSEE** waives all claims against **LESSOR** for damages to improvements that are now on or hereafter placed or built on the demised premises or about the demised premises and to the property of **LESSEE** in, on, or about the premises, for injuries to persons or property in or about the demised premises, from any cause arising at any time. The provisions in this

Lease permitting **LESSOR** to enter and inspect the Leased Premises shall not in any way limit, reduce or restrict **LESSEE'S** obligations under this Section.

LESSOR shall have no obligation for the payment of any judgments or the settlement of any claims against **LESSEE** or its subcontractors, agents or employees as a result of or relating to **LESSEE'S** obligations under this Agreement.

LESSEE shall immediately notify **LESSOR**, c/o Shelby County Finance, Suite 1150, 160 N. Main Street, Memphis, Tennessee 38103 and Contracts Administration, Shelby County Government, 160 North Main, Suite 550, Memphis, TN 38103, of any written claim or suit made or filed against **LESSEE** or its subcontractors, agents or employees regarding any matter resulting from or relating to **LESSEE'S** obligations under this Agreement, and will cooperate, assist, and consult with **LESSOR** in the defense or investigation of any written claim, suit or action made or filed against **LESSOR** as a result of or relating to **LESSEE'S** performance under this Agreement.

17. **Hazardous Substances.**

(a) The term "*Hazardous Substances*," as used in this Lease, shall mean any regulated, hazardous or toxic substances, products, materials or wastes, including, but not limited to, (i) those substances, products, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR § 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR § 302.4) and amendments thereto, (ii) any substance, product, material or waste designated as a "Hazardous Substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251, et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317), or any amendments thereto, (iii) any substance, product, material or waste designated as a "Hazardous Waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), or any amendment thereto (iv) any substance, product, material or waste defined as a "Hazardous Substance" pursuant to Section 101 of the

Comprehensive Environmental Response, Compensation and Liability Act, (42 U.S.C. § 9601, et seq.), or any amendment thereto, (v) any oil or oil product as defined by the Oil Pollution Act of 1990 (33 U.S.C. § 2701, et seq.), or any amendment thereto, (vi) any substance, product, material or waste defined as a "gas," a "liquefied natural gas," or a "hazardous liquid" (including petroleum or a petroleum product) pursuant to the Pipeline Safety Act (49 U.S.C. § 60101, et seq.), and (vii) any substance, material, product or waste (including, without limitation, asbestos, petroleum, petroleum products, and raw materials which include hazardous, toxic or regulated constituents), the release, discharge, removal, remediation, disposal or use of which is restricted, regulated, controlled, proscribed, prohibited or penalized by any "Environmental Law."

(b) The term "Environmental Law," as used in this Lease, shall mean any federal, State or local law, regulation or ordinance relating to health, safety, pollution or protection of the

environment, whether existing as of the date hereof, previously enforced, or subsequently enacted. The term "Hazardous Substance" shall include and mean "Regulated Substance."

(c) If any Hazardous Substances are spilled, released or otherwise discovered on the demised premises or any property outside of the demised premises as a result of **LESSEE'S** Permitted Use as defined in Paragraph 2 herein, then it shall be **LESSEE'S** responsibility to promptly investigate, remove and/or remediate such Hazardous Substances if such investigation, removal and/or remediation is required by applicable law and the governmental agency having jurisdiction thereof. **LESSEE** shall have a reasonable time to perform such work, but if **LESSEE** fails or refuses to do so, then **LESSOR** shall have the right (but not the duty) to perform such work on the demised premises or the property outside of the demised premises with respect to the Hazardous Substances and to charge the reasonable cost of the same to the **LESSEE**.

(d) **LESSOR** and **LESSOR'S** agents and representatives shall, subject to compliance with all federal, state and local safety requirements, have the right to enter into or upon the demised premises, or any part thereof, for the purpose of examining same, including but not limited to, the right to test for Hazardous Substances on or under the surface of the property consisting of the demised premises. **LESSEE** shall have the right to receive split samples of any sampling matter to be tested by **LESSOR** which split samples will be analyzed by **LESSEE** at **LESSEE'S** expense.

(e) If **LESSOR** or **LESSEE** discovers any Hazardous Substances on the demised premises or emanating from operations conducted within the demised premises, it will promptly notify the other party of the details of such discovery and the Hazardous Substances.

(f) **LESSEE** hereby agrees that (i) no activity will be conducted on the demised premises by **LESSEE**, its agents, employees, licensee, invitees or any other party entering the demised premises without the consent or knowledge of **LESSEE** during the term hereof that will produce any Hazardous Substance, except for such activities that are part of the ordinary course of normal business activities provided said activities are conducted in accordance with governing Environmental Laws; (ii) the demised premises will not be used by **LESSEE**, its agents, employees, licensee, invitees or any other party entering the demised premises without the consent or knowledge of **LESSEE** during the term hereof in any manner for the storage of any Hazardous Substances except for the temporary storage of such materials that are used in the ordinary course of **LESSEE'S** business (the "Permitted Materials") provided such Permitted Materials are properly stored in a manner and location in compliance with governing Environmental Laws; (iii) no portion of the demised premises will be used by **LESSEE**, its agents, employees, licensee, invitees or any other party entering the demised premises without the consent or knowledge of **LESSEE** during the term hereof as a landfill or dump; (iv) **LESSEE**, during the term hereof, shall have the express right to install, remove and/or relocate, from time to time, underground pipelines and associated equipment provided such work is performed in accordance with governing Environmental Laws; (v) **LESSEE** will not during the term hereof

allow any surface or subsurface condition to exist or to come into existence that constitutes, or with the passage of time may constitute, a public or private nuisance; (vi) **LESSEE** will not during the term hereof permit any Hazardous Substances to be brought onto, stored, processed, disposed of on, released, discharged from or otherwise handled on the demised premises (including ground water contamination), except for the activities and Permitted Materials described above, and if so brought or found located thereon, the same shall be immediately removed, with proper disposal in compliance with governing Environmental Laws, and all required cleanup procedures shall be diligently undertaken pursuant to governing Environmental Laws.

(g) Upon the expiration or termination of the term of this Lease **LESSEE** at its own expense, hereby agrees to comply with all applicable Environmental Laws including required cleanup procedures, if any, which shall be diligently undertaken, in compliance with the governmental agency having jurisdiction thereof.

(h) Any rights or remedies available to Landlord under this Lease shall be in addition to any rights or remedies available to **LESSOR** under any Environmental Laws

18. **Actions of Mayor and Board of Commissioners.** No provision herein shall in any way whatsoever be interpreted or construed as restricting or prohibiting the Mayor and/or Board of Shelby County Commissioners from taking any action or passing any resolution or ordinance or their failing to take any action or passing any resolution that they deem to be in the best interests of Shelby County or citizens thereof, or otherwise carrying out their lawful duties.

19. **Representations and Warranties.** Each party represents to the other with respect to itself that the execution and performance of this Lease Agreement has been duly authorized by all necessary resolutions and corporate or partnership or other such action, and this Lease Agreement constitutes the valid and enforceable obligations of **LESSOR** and **LESSEE**.

LESSEE certifies that it shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Agreement.

LESSEE warrants that it has not employed or retained any company or person other than a bona fide employee working solely for **LESSEE**, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for **LESSEE** any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, **LESSOR** will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift or other consideration.

20 **Subletting and Assignment.** **LESSOR** shall have the right to approve in its sole discretion each proposed assignee or sub-lessee on the basis of experience, reputation and financial strength. No subletting, assignment or transfer shall be effective unless approved in writing by **LESSOR** and shall not relieve **LESSEE** from performance of its duties under this Agreement.

21. **Notices.** All notices and approvals required or permitted hereunder shall be written and shall be delivered by a nationally recognized overnight delivery service or by U.S. certified mail, return receipt requested, to the following addresses or such other addresses of which any of the; parties shall give notice from time to time during the term hereof:

If to **LESSOR**: Administrator, Contracts Administration/Asst. County Attorney
Shelby County Government
160 N. Main Street, Suite 550
Memphis, TN 38103
Phone: (901) 545-4360

If to **LESSEE**: D. Curtis Wegener
4728 Spottswood #207
Memphis, TN 38117
Phone: (901) 683-6837

22. **Choice of Law.** This Lease Agreement will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Lease Agreement, **LESSEE** agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Lease Agreement will be instituted and litigated in the Courts of the State of Tennessee, or in the United States District Court, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Lease Agreement submit to the jurisdiction of such courts in Shelby County, Tennessee.

23. **Act of God.** No party shall be liable to any other party or parties for any delay or damage or any failure to act (other than payment of money) as a result of strikes, acts of God or other causes beyond the control of the parties, and delay as a result of the above causes shall not be deemed to be a breach of or failure to perform under this Agreement.

24. **Unenforceability.** If any provision of this Lease Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a Court finds that any provision of this Lease Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to have been written, construed and enforced as so limited.

25. **No Waiver.** No waiver of any default of **LESSOR** or **LESSEE** hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by **LESSOR** or **LESSEE** shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

26. **Approvals.** In all instances referenced in this Lease Agreement in which an approval of

one party is required, such approval shall be neither unreasonably withheld, delayed nor conditioned.

27. **Relationship.** Nothing in this Lease Agreement shall be deemed to create a joint venture or partnership between or among any of the parties.

28. **Successors.** The provisions of this Lease Agreement shall extend to and be binding upon LESSOR and LESSEE and their respective legal representatives, successors and assigns.

29. **Headings.** The headings used in this Lease Agreement are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

30. **Memorandum of Lease.** The parties hereto contemplate that this Lease Agreement may be recorded for the purpose of giving public notice of the appropriate provisions of this Lease.

31. **Amendment.** This Lease Agreement may be modified only by amendment made in writing and signed by both parties.

32. **Non-Discrimination.** The LESSEE hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the LESSEE on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The LESSEE shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

33. **Subject to Funding.** This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the Term hereof, then this Contract will be terminated.

34. **Entire Agreement.** This Lease Agreement contains the entire understanding among the parties with respect to the demised premises and there are no other promises or conditions in any other agreements between the parties, whether oral or written, related to the demised premises. This Lease Agreement supersedes any prior written or oral agreements between or among all or any of the parties with respect to the demised premises which continue to govern the rights and obligations of the parties with respect to the demised premises.

IN WITNESS WHEREOF, the parties, by and through their duly authorized representatives, has executed this Lease Agreement. On behalf of LESSOR, affixing thereto of the signature of the Mayor of Shelby County Government, the said Mayor being authorized so to do pursuant to and in accordance in with the approval of the Shelby County Board of Commissioners, on the ____ day of _____, 2009, in Resolution # _____.

LESSEE: D. CURTIS WEGENER

By: _____
D. Curtis Wegener

LESSOR: COUNTY OF SHELBY

By: _____
A C Wharton, Jr., County Mayor

Approved as to Form:

By: _____
Assistant County Attorney

Other County Approvals:

By: _____
Director of Public Works

By: _____
Land Bank Administrator

By: _____
County Real Estate Manager

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **A C WHARTON, JR., Mayor of Shelby County, Tennessee**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Mayor of Shelby County, Tennessee**, the within named bargainor, one of the counties of the State of Tennessee, and that he as such **Mayor** of said county, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of **Shelby County, Tennessee**, by himself as such **Mayor** of said **Shelby County, Tennessee**.

WITNESS my hand and Notarial Seal, at office in the County of Shelby, in the County aforesaid, this ____ day of _____, 2009.

Notary Public

MY COMMISSION EXPIRES:

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared, **D. CURTIS WEGENER**, with whom I am personally acquainted (or who has proven to me on the basis of satisfactory evidence), and who, upon his oath, acknowledged himself to be the person described in and who executed the foregoing instrument, and further acknowledged that he executed the same as his free act and deed..

WITNESS my hand and Notarial Seal, at office in Memphis, in the County aforesaid, this ____ day of _____, 2009.

Notary Public

MY COMMISSION EXPIRES:

EXHIBIT "A"

Commencing at a set cotton picker spindle in the centerline of existing pavement of Benjestown Road, said point being located in the south line of the Robert Leon Wardlow and wife, Barbara Ann Wardlow property recorded in Instrument No. E9-6261; thence south 88 degrees 50 minutes 56 seconds east with the south line of the Carl D. McDougle and wife, Jacqueline McDougle property recorded in Instrument No. EY-7583 and with the south line of the Robert Leon Wardlow and wife Barbara A. Wardlow property recorded in Instrument No. BT-6306, 1029.56 feet to a found iron pin; thence north 05 degrees 06 minutes 33 seconds east with the east line of said property recorded in Instrument No. BT-6306, 52.64 feet to a set ½" rebar with plastic cap in the west line of New Benjestown Road as described in Instrument No. K7-2892 and said point being **THE POINT OF BEGINNING**; thence north 05 degrees 06 minutes 33 seconds east 244.38 feet to a point in the east line of New Benjestown Road; thence southeastwardly with the east line of said New Benjestown Road the following calls: south 22 degrees 41 minutes 49 seconds east, 3266.06 feet; north 67 degrees 18 minutes 11 seconds east, 333.00 feet; south 22 degrees 41 minutes 49 seconds east, 551.98 feet to a point; thence south 55 degrees 18 minutes 14 seconds west, 674.74 feet to a point in the west line of New Benjestown Road; thence northwestwardly with the west line of said New Benjestown Road the following calls: north 22 degrees 41 minutes 49 seconds west, 1192.26 feet; north 67 degrees 18 minutes 11 seconds east, 213.00 feet; north 22 degrees 41 minutes 49 seconds west, 2549.89 feet to **THE POINT OF BEGINNING** and containing 877,106.88 square feet or 20.14 acres of land, more or less.

EXHIBIT "B"

